

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION**

)
) **MDL No. 1456**
) **Master File No. 01- 12257-PBS**
) **Subcategory Case. No. 06-11337**
)

THIS DOCUMENT RELATES TO:

) **Hon. Patti B. Saris**
)

*United States of America ex rel. Ven-A-Care of the
Florida Keys, Inc., et al. v. Dey, Inc., et al.,*
Civil Action No. 05-11084-PBS

) **Magistrate Judge**
) **Marianne B. Bowler**
)
)

JOINT MOTION TO CONTINUE JULY 7, 2010 DAUBERT HEARING

Defendants Dey Pharma, L.P. (formerly known as Dey, L.P.), Dey, Inc., and Dey L.P., Inc., together with Plaintiff the United States of America and Relator, Ven-A-Care of the Florida Keys, Inc., (collectively “the Parties”) hereby respectfully request that the Court continue the Daubert hearing currently scheduled in the above-captioned case for July 7, 2010 at 2:30. On June 30, 2010, the Parties held a mediation in accordance with the Court’s May 3, 2010 directive. Progress was made at that time, and the Parties request a continuance so that they may continue their discussions. The Parties request that the Court continue the hearing to the week of July 26, 2010 or later, as convenient for the Court.

WHEREFORE, the Parties request that the Court grant this motion, and continue the July 7, 2010 Daubert hearing until the week of July 26, 2010 or later.

Dated: July 1, 2010

Respectfully Submitted,

KELLEY DRYE & WARREN LLP

By: /s Sarah L. Reid
Paul F. Doyle (BBO # 133460)
Sarah L. Reid (pro hac vice)

William A. Escobar (pro hac vice)
Neil Merkl (pro hac vice)
101 Park Avenue
New York, NY 10178
Telephone: (212) 808-7800
Facsimile: (212) 808-7897

Martin F. Murphy, BBO #363250
Robert E. Toone, BBO #663249
FOLEY HOAG LLP
155 Seaport Boulevard
Boston, MA 02210
Telephone: (617) 832-1000

*Attorneys for Defendants Dey Pharma, L.P.,
Dey, Inc., and Dey L.P., Inc*

TONY WEST
ASSISTANT ATTORNEY GENERAL

CARMEN M. ORTIZ
UNITED STATES ATTORNEY

By: /s/ George B. Henderson, II
George B. Henderson, II
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
Suite 9200, 1 Courthouse Way
Boston, MA 02210
Telephone: (617) 748-3272

-and-

Joyce R. Branda
Daniel R. Anderson
John K. Neal
Laurie A. Oberembt
Civil Division
Commercial Litigation Branch
P.O. Box 261
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-1088

For Plaintiff the United States of America

THE BREEN LAW FIRM

James J. Breen
Alison W. Simon
P.O. Box 297470
Pembroke Pines, FL 33029-7470
Telephone: (954) 874-1635
Facsimile: (954) 874-1739

*For Relator Ven-A-Care of the Florida
Keys, Inc.*

LOCAL RULE 7.1 CERTIFICATION

I certify that, on July 1, 2010, counsel for Dey consulted with counsel for the Government, who indicated that the Government consented to this motion.

/s Sarah L. Reid

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on July 1, 2010, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s Sarah L. Reid